

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

GLORIA A. WILLIS

PLAINTIFF

v.

Civil No. 04-1107

UNITED FOOD AND COMMERCIAL
WORKERS UNION, LOCAL 2008

DEFENDANT

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Now pending before the court are motions (Docs. 30, 32) for leave to appeal in forma pauperis (IFP) filed by the plaintiff. These motions have been referred to the undersigned by the district court (Doc. 33.) On January 27, 2006, the district court granted defendant's summary judgment motion and entered a judgment in favor of the defendant, finding that Willis had failed to provide the court with any evidence that would create a genuine issue of material fact from which a jury could find discrimination by the defendant based on race, gender, religion, or retaliation. (Docs. 26, 27.)

Thereafter, the plaintiff filed a motion under Federal Rule of Civil Procedure 60 for relief from judgment (Doc. 28) and a notice of appeal (Doc. 29). The plaintiff also filed a motion for leave to appeal as a pauper (Doc. 30) and has completed an IFP application (Doc. 32). From the application, it is found that plaintiff is unable to pay the filing fee for this appeal. *See* 28 U.S.C. § 1915(a)(1).

However, 28 U.S.C. § 1915(a)(3) provides that "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." For the reasons stated in memorandum opinion, it was found that no genuine issue of material fact existed and

thus the court granted defendant's motion for summary judgment. Therefore, this appeal is not taken in good faith. Accordingly, plaintiff's application to proceed IFP on appeal should be denied.

I recommend that the district court direct plaintiff to pay the full filing fee of \$455.00 within one month from the date of the order or renew her application to proceed IFP with the United States Court of Appeals for the Eighth Circuit.

The parties have ten days from receipt of this report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely written objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 3rd day of May 2006.

/s/ Bobby E. Shepherd

HON. BOBBY E. SHEPHERD
UNITED STATES MAGISTRATE JUDGE